

The Alliance Herald

Official Paper of Box Butte County

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Official Paper of the City of Alliance

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NO. 15

MANAGER PLAN WILL WIND UP IN THE COURTS

THAT COURSE NECESSARY TO DETERMINE LEGALITY

Mayor Rodgers of the Opinion That Those Who Want the New Plan Have Burden of Proof.

The legality of the special election held in Alliance January 4, at which a majority of the voters favored the city manager plan of municipal government, will probably have to be threshed out in the courts. Following the holding of the election, it was brought out that the notice of election had been published but twenty-one days, when the ordinance providing for the election specified that a thirty-day notice should be given. The failure to publish the notice the required length of time is held by Mayor Rodgers and other opponents of the plan to invalidate the election. But there are dissenters prominent among whom is City Attorney W. R. Metz.

In response to a request from the newspapers, Mr. Metz last Friday issued an opinion in the matter, in which he declared that, so far as he had been able to investigate at that time, the election was legal, despite the inadequacy of the notice. The city attorney pointed out that the statute governing the city manager form of government provides that the election shall be held in the manner prescribed by the general election laws, which contain no provision for a published notice. The contention that the ordinance provided for a thirty-day notice is waved aside by Mr. Metz as of no consequence, inasmuch as "the decisions in this state are uniform to the effect that even where the statute provides for a notice to be given for a certain length of time the failure to give such notice does not invalidate the election," he says.

The opponents to the plan have called attention to the only other incident of the kind in Box Butte county, when, in 1912, a second court house bond election was held because of failure to publish an election notice the required length of time. It is not exactly settled that the matter was ever handed to the courts for a decision, some being of the opinion that another election was called as soon as the technicality was raised. Unfortunately, this remedy cannot be used in the present instance. If this election is decided to be invalid, it means that there will be no city manager for Alliance for at least two years. There isn't time to hold another election and still have time for holding a primary under the new plan. Unless the election is established as a valid one, this city will continue under a mayor and council for the coming biennium.

Mayor Rodgers is apparently not desirous of taking any steps to settle the question. When interviewed by a Herald reporter Monday afternoon, he intimated that no primary election would be called in March unless the courts had passed upon the question of legality. The primary election is the first step in putting the plan into effect. Mr. Rodgers feels that the men who signed the petition and fought for the adoption of the plan should be the ones to make the fight, if any fight is made.

"If the people of Alliance want the city manager plan, I'm willing they should have it," he said, "but so far as helping to put the plan into operation while there's a question of its legality—I'm not in favor of it. There are too many opportunities for trouble. There would be no market for our bonds, and every official act of the new council or the manager might be illegal."

Mr. Rodgers said that the council, at its meeting last Tuesday evening, had canvassed the votes, but had left the council chamber without coming to any decision. City Attorney Metz was asked for an opinion, and will probably file one within a few days. Then it is up to the mayor and council, a majority of whom oppose the plan, to say whether it shall go into effect. Mr. Rodgers said that he would be willing to be governed by a legal opinion in the matter, but hinted that the city attorney's would not be sufficient.

Friends of the plan, now that they have opinions from several attorneys that the election was legal, will not be content to see it die a natural death because of inaction. If steps are not taken to put the plan into effect, it is quite probable that a fund will be raised to fight the matter in the courts, with the chances, they say, decidedly in their favor. Whether

State Historical Society

Fair and warmer ... Wednesday increasing cloudiness; becoming unsettled west portion. Warmer east portion.

the mayor will be satisfied with anything less than a court decision is problematical. Unless he changes his stand—and he has occasionally done so—that is pretty likely to be about what will happen.

Friends of Leon H. Mosher are relieved to learn that he has passed through the first of his operations at the Mayor clinic at Rochester, Minn., as well as can be expected. Mr. Mosher left Alliance a week or ten days ago to undergo an operation for cancer, and knew when he left that he had about an even chance for recovery. The second and final operation will take place some time this week, and his many friends here are anxiously awaiting the outcome.

BROADWATER IS STRONG FOR AN ALLIANCE ROAD

BOOSTING FOR STATE AID FOR CONNECTING HIGHWAY

Rather Vexed at Commissioners For a Lack of Enthusiasm in the Matter

Broadwater is strongly behind the movement to secure state aid for a highway connecting Alliance and Broadwater, as is witnessed by the following article from the last issue of the Broadwater News. At last week's luncheon of the chamber of commerce members, a delegation from that city, including one of the county commissioners, announced themselves to a man as favoring the project, and a delegation from Alliance went with a Broadwater delegation to talk to the Morrill county commissioners. The News said:

It's the same old story about getting support from the gentlemen who have a little say as to where a road should be supported. This Alliance-Broadwater road should have the support of the commissioners as a body, regardless of other roads at the present time.

Ray C. Munkers, Chas. B. Merritt, C. W. Draper and G. R. Harries attended the good roads meeting held at Alliance last Saturday. The object of this meeting was to discuss the feasibility of getting state and federal aid on the Alliance-Broadwater route. As a result a delegation was sent before the county commissioners of Morrill county to see what could be done. They didn't get much satisfaction that day, only a promise that the Morrill county commissioners would traverse the proposed route on Wednesday of next week.

Dale Osborne, the new Morrill county commissioner, has never been over the proposed road, therefore they will give the new man an opportunity to look over the situation. The matter of state or federal aid lays absolutely with the support of the Box Butte and Morrill county commissioners, and the Box Butte commissioners will also be on hand that day.

A road of this nature is considerable different than a petition to open a mile or two of road. This road has been laid out and traversed by tourists and they seem to think that this is the logical road to improve for a route to connect with the federal road at Broadwater and the Lincoln highway via Dalton to Sidney. Of course Mr. Garvey, Bridgeport member of our own board of commissioners, had the audacity to state that Bridgeport was in favor of having federal and state aid on the road from Bridgeport to Alliance. We all expected that and the selfish desires of this nature is what keeps Bridgeport and Broadwater on nettles. Broadwater has never received any support from a Bridgeport county commissioner. Should it be so? The two towns are both in Morrill county and should pull together more in harmony to secure the best for the county, but that commissioner seems to think that there is no other town in the county with the exception of Bridgeport. If Bridgeport wants to make friends and pull with the balance of the population of Morrill county, she must help support such good things as the majority of the citizens in either end of the county want.

Last year about \$6,000 was spent on the Alliance-Broadwater road and only about 14 miles are left to fix up through the sandhill district to make it a fairly good road.

We, in this end of the county, can only wait and see what the action of the commissioners of the two counties will be.

The delegation to Bridgeport Tuesday was composed of the following: Claude Williams, J. M. Stransky, Virgil Bruner, Chas. Munsey, R. L. Williams, Mr. McNorlin, Mr. Covatt, Chas. Snow, Frank Z. McMains, Guy E. Harmon and Mr. Graham, Alliance postmaster.

J. E. WILSON IS STRUCK BY AUTO DRIVEN BY SON

SUFFERS BROKEN LEG AND POSSIBLE INTERNAL INJURIES

Injured Man Was Standing in Road Seeking Ride to Antioch and Was Hit by Car Fender.

J. E. Wilson of this city suffered a broken leg and possibly internal injuries when he was struck by a car driven by his son, Jesse Wilson, on the Antioch road near this city about 8:30 Saturday night. Mr. Wilson was not directly in the path of the car, but stepped into it when the driver attempted to go around him, and was thrown to the ground. He was brought to the city by another car a short time afterward.

Mr. Wilson desired to go to Antioch Saturday night, and went to the Antioch road, hoping a find a car to take him there. He knew his son was in the city and expected to find him or someone else. He was walking down the road toward his destination. A car came up behind him and he attempted to signal it, but the driver apparently did not see him until he came up within fifty or sixty feet and did not stop, but turned out of the road. Mr. Wilson, when the car sailed past him, stepped in the wrong direction and as the car was quite close, right into the path of the rear wheels. The driver, who heard only the sound of his motor and being intent on the road ahead, had no idea that there had been an accident, and did not stop.

It was not until the following morning that it was discovered that the driver of the car was Jesse Wilson, son of the injured man. He had been hurrying to his home, seven miles east of Alliance. He told the family that he did not see his father until he was almost upon him, and had just had time to turn out of the way to avoid striking him. Wilson is known as a careful driver, but he admits that he was losing no time on the road.

The injured man was taken to the St. Joseph hospital, where his broken limb was attended to. Sunday morning he was given an X-ray examination at the office of Dr. C. E. Slagle to assist in determining the full extent of his injuries.

ONE DOLLAR BILL WAS RAISED TO A TEN-SPOT

The federal secret service at Denver, according to advices received by Chief of Police Charles Jeffers, on January 6 picked up a man who confessed to having passed a number of one-dollar federal reserve notes made over into ten-dollar notes. The prisoner made a complete confession, admitting that he had passed notes of this kind in Hot Springs and in Alliance, Neb.

One of the raised notes was passed at the W. R. Harper department store a week ago last Saturday. Corners of other \$10 bills had been clipped off and pasted on the various corners of the bill, and the "one" before the word "dollar" on both the front and reverse had been scratched out. The work was fairly crude, but was sufficiently good to deceive the eye of any one save a banker used to handling money. The First National bank immediately discovered that the note had been raised.

One of the Harper clerks believes that he will be able to identify the man who passed the note, and will doubtless be called to Denver to testify at the trial.

The note-raiser is described as a Norwegian, about twenty-five years of age, well set up, blue eyes, wearing dark suit, cap and mackinaw coat, blue-green with brown check, khaki shirt; about 5 feet 9 inches and weighing about 150 pounds.

The advices received by Chief Jeffers state that other notes of this kind were passed in Alliance, and possibly they will be discovered.

ANDERSON'S COAT CONTAINED NO EVIDENCE

FIRST REPORTS WERE CONSIDERABLY EXAGGERATED

No Checks Endorsed by Evelyn McElhanev, No Insurance Policy and Nothing of Value.

Last Friday a report was current in Alliance that a coat belonging to Earl B. Anderson, barber who was murdered in Alliance the night of December 7 last, had been discovered in the Joe Smith pool hall and that it contained all sorts of evidence, as well as some things of value to the relatives of the dead man. An Alliance newspaper caught the rumor on the fly and played it up for all it was worth, and the Alliance correspondents to the daily newspapers in Omaha and Lincoln sent in long telegraph stories of the find.

The story as printed said that the coat had been hanging on a hook in the pool hall, unnoticed since the murder. When an employe came upon it, he found in the pockets a \$2,000 war risk insurance policy, an agreement showing that Anderson owned a half interest in an Omaha pool hall, valued at \$1,000, and cancelled checks aggregating \$1,500, endorsed by Evelyn McElhanev, convicted of the murder. These cancelled checks were declared to bear out the contention of Special Prosecutor W. A. Prince of Grand Island, who endeavored to show that Tom Leavitt, designated by the name of "Gyp the Blood" by Attorney Prince, and Mrs. McElhanev had secured most of Anderson's money. The finding of the insurance policy and evidence of an interest in the Omaha pool hall and barber shop were hailed with especial delight, because of the poverty of the sister of the dead man, Miss Hettie Anderson of Atlanta, Ga., a poor girl who had difficulty raising money to have the body sent to her.

The untimely report of Mark Twain's death, however, the importance of this discovery seems to have been grossly exaggerated. It was true that the coat was discovered. It is likewise true that the coat is of a dark blue shade, and that it was not the coat Anderson was wearing when he was shot. But right there the report strays away from the realm of fact and becomes pure fancy.

There was no insurance policy for \$2,000 in the coat when found. There was a notice from the bureau of war risk insurance—a printed slip—telling him that he had until December 31 to reinstate his insurance without a medical examination, provided a number of things.

There was a bill of sale, dated March 30, 1920, from C. H. Michell to Earl B. Anderson, granting him a half-interest in the barber shop, billiard parlor and pool hall at 2552 Cuming street, Omaha, for a consideration of \$1,000, of which payment was acknowledged. Unfortunately for the relatives, however, there was a second bill of sale, dated June 20, which, for the sum of \$627 granted to one O. E. Peterson the entire pool hall, billiard parlor, barber shop and all appurtenances thereto.

Instead of there being cancelled checks made out by Earl B. Anderson and endorsed by Evelyn McElhanev, to the amount of \$1,500, there was one check, made out to "cash" and signed by E. D. McElhanev. It was not for \$1,500, but for ten times that amount, \$15,000—and had never been cashed, probably for the good and sufficient reason that the drawer of the check never had that much money on deposit. It was written on an Alliance National check, and the word "National" had been scratched out and the word "State" written above it. There is no Alliance State bank, and the supposition is that it was written in a moment of playfulness. It is quite certain, however, that a dozen such checks would have afforded Attorney Prince neither comfort nor satisfaction.

The coat also contained a list of the contents of what was apparently a pool hall and barber shop combined. One sheet of the list was headed "Total Loss" and the other "Damaged Goods," which inclines the county authorities to the belief that Anderson was part owned had been partially burned. This belief is further corroborated by the fact that the second bill of sale was for a much lower sum than Anderson had paid for his half-interest.

Other contents of the coat consisted of a mass of old bills and letters, one of which was from an attorney, who mentioned the fact that a bill amounting to \$187.59 had been placed in his hands for collection. A letter from a wholesaler issued the warning that unless eleven dollars and some cents was paid forthwith, something would happen.

With these few exceptions, the published reports concerning the coat and its contents were absolutely correct.

A COMMUNITY PARTY PLANNED BY THE C. OF C.

GET-TOGETHER IS ANNOUNCED FOR FRIDAY, JANUARY 28

Everybody in the County Invited to Be Present at the Roof Garden That Evening

A community party, to which every resident of Box Butte county has been invited, is planned by the Alliance chamber of commerce for the Lowry & Henry roof garden for Friday evening, January 28. This will be the first of a series of public gatherings, the object of which is solely entertainment, and the evening will afford an opportunity for the people of the city and county to become better acquainted.

There will be no long-winded speeches, according to Secretary George M. Carey. There will be no short-winded speeches. There will be a short musical program, however, followed by dancing and card playing. Refreshments of coffee and doughnuts will be served. Alliance is fortunate in having the roof garden for such occasions, for it will take a mighty big crowd to fill it.

One feature of the evening's entertainment will be community singing. The choirs from the various churches will be scattered about the hall to take the lead in this, but every man, woman and child is free to lift a lusty voice.

It is especially desired that out-of-town people arrange to be in Alliance that evening and join in the festivities. There will be no admission fee. It's bound to be a most pleasant evening.

HOME OF ROY GARWOOD IS DESTROYED BY FIRE

The family of Roy Garwood, living southeast of town on the old Jack Miller homestead, narrowly escaped with their lives when a fire completely destroyed their home yesterday morning. About six o'clock when Mr. Garwood returned from milking he discovered smoke issuing from the house and was then unable to enter the main part. After smashing in the bedroom window, he managed to rescue his wife and two small children but with great difficulty as the moment the window was opened, the smoke burst into flame. The family saved absolutely nothing and escaped with only their nightclothes. Explosion of a heating stove is given as the cause of the conflagration as the doors of the stove were found detached. For the present Mr. Garwood and family are with his brother, Mr. Ray Garwood, who resides not far from the Jack Miller place.

AMERICAN LEGION TO ELECT NEW OFFICERS FRIDAY EVE

Members of Alliance Post No. 7, American Legion, will have an opportunity that comes but once in a lifetime, that of electing practically two sets of officers in the same year. Due to the removal of Post Commander J. B. Miller from Alliance, that place has been vacated, and the vice commander, E. V. Black, is unable to take it. Two or three other resignations have also been handed in, which will have to be filled.

A meeting has been called for next Friday evening at 8 o'clock, and a full attendance is desired.

Mrs. N. S. Fielding, who has been on the sick list the last week, is rapidly improving.

NO "BOSS" TO BE APPOINTED FOR MRS. HIGGINS

JUDGE TASH DISMISSES APPLICATION FOR GUARDIAN

Finds Aged Woman is Competent to Handle Her Affairs—Action is Brought by Daughters

After a hearing which lasted all day Friday and the better part of Saturday, County Judge Tash dismissed an application for a guardian for Mrs. Julia Higgins, an aged Irish woman living in Alliance, and gave it as his opinion that she was perfectly competent to handle her own affairs. The action was brought by Mrs. Margaret Briggs, daughter of Mrs. Higgins, as petitioner, and was later joined in by Mrs. Della Henderson of Red Oak, Ia., another daughter.

The two daughters petitioned the court to appoint a guardian for their mother on the ground that, owing to her advanced age, she was mentally incompetent to transact the ordinary business affairs of life. Mrs. Higgins was accompanied to court by her attorney, William Mitchell. The petitioners were represented by R. O. Reddish of Alliance and Oscar Wrenstrand of Red Oak, Ia.

The petitioners called as witnesses R. M. Hampton, Mr. and Mrs. D. H. Briggs, Mr. and Mrs. Henderson, Mr. and Mrs. Herman Krause and Dr. C. E. Slagle. The testimony of Dr. Slagle covered the symptoms of senility and mental incompetency. Mr. and Mrs. Krause told of meeting the defendant at a picnic some months previously, and although they had been acquainted with her, she did not remember them. The evidence of the other witnesses showed some instances of forgetfulness, some instances of irritation, and some little vindictiveness on the part of the defendant.

After the evidence was taken, Attorney Mitchell moved to dismiss the case for the reason that the petitioners had not made a prima facie case showing the defendant to be mentally incompetent. The motion was overruled and the case adjourned until 9 a. m. Saturday.

Saturday morning the defendant, Mrs. Higgins, was called to the stand for examination by Attorney Mitchell and cross-examination by opposing counsel, and the question of her mental condition was thoroughly discussed. During this examination, the defendant showed a remarkable memory, much shrewdness, wit and sarcasm, as well as more than the ordinary business ability. Other witnesses called in her behalf were Miss Maggie Barry, J. D. Barry, James Dorrity and Cecil Wilson.

Mrs. Higgins' testimony brought out a brief history of her life and the circumstances preceding the petition for the appointment of a guardian. She and her husband, Thomas Higgins, were born in Ireland. Both were uneducated and could neither read nor write. They were married at Dubuque, Ia., forty-six years ago, and later, in the early 80's, came west to Dawes county, Nebraska, where Mr. Higgins was section boss at Wayside, north of Chadron, for several years, where he acquired 640 acres of land. Later they came to what is now Antioch, where he again held the job of section boss. They then moved to Lakeside where, until seven or eight years ago, Mr. Higgins held a similar position. During this time they had taken a government homestead, and the couple had, by hard work, thrift and economy, built up a ranch of about 2,000 acres. At Mr. Higgins' death, five years ago, a fair valuation of the property was \$50,000.

Prior to the death of Mr. Higgins, he willed all of his property to his wife. At that time the family consisted of three married daughters, the two petitioners and Mrs. Cecil Wilson. Later Mrs. Higgins decided to deed to the three daughters jointly, share and share alike, all of the real estate comprising the ranch, reserving for her maintenance and support the rental therefrom, and also reserving for her use \$5,000 in cash on deposit and the income therefrom.

After her husband's death, Mrs. Higgins made her home with her daughter, Mrs. Wilson, until the latter's death last summer. Mrs. Wilson was her favorite daughter, and little Julia Wilson, her granddaughter, "the one person on earth she loves the best." She had presented to her granddaughter, the only child of her deceased daughter, the sum of \$3,900, to become hers at Mrs. Higgins' death, reserving the interest thereon during her lifetime. She is now living at the Barry house in Alliance. (Continued on Page 4)

COUPON
By Special Arrangement of
The Alliance Herald
This Coupon and 10¢ will admit any child under 16 years to the biggest picture ever presented to the public Thursday, Jan. 20, "GO AND GET IT"
Without This Coupon, Admission 15¢